

1-1 By: Lambert (Senate Sponsor - Schwertner) H.B. No. 3615
1-2 (In the Senate - Received from the House May 4, 2023;
1-3 May 10, 2023, read first time and referred to Committee on Business
1-4 & Commerce; May 21, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 4;
1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Birdwell		X		
1-12	Campbell	X			
1-13	Creighton		X		
1-14	Johnson	X			
1-15	Kolkhorst		X		
1-16	Menéndez	X			
1-17	Middleton		X		
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 3615 By: Schwertner

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to surcharges imposed for the use of a credit card.
1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-25 SECTION 1. Section 604A.0021, Business & Commerce Code, is
1-26 repealed.
1-27 SECTION 2. The heading to Chapter 604A, Business & Commerce
1-28 Code, is amended to read as follows:
1-29 CHAPTER 604A. PROHIBITION OR REGULATION OF CERTAIN SURCHARGES
1-30 SECTION 3. Section 604A.003, Business & Commerce Code, is
1-31 amended to read as follows:
1-32 Sec. 604A.003. CIVIL PENALTY. (a) A person who knowingly
1-33 violates Section 604A.002 [~~or 604A.0021~~] is liable to the state for
1-34 a civil penalty in an amount not to exceed \$500 for each violation.
1-35 The attorney general or the prosecuting attorney in the county in
1-36 which the violation occurs may bring:
1-37 (1) a suit to recover the civil penalty imposed under
1-38 this section; and
1-39 (2) an action in the name of the state to restrain or
1-40 enjoin a person from violating this chapter.
1-41 (b) Before bringing the action, the attorney general or
1-42 prosecuting attorney shall give the person notice of the person's
1-43 noncompliance and liability for a civil penalty. The notice must:
1-44 (1) contain guidance to assist the person in complying
1-45 with this chapter;
1-46 (2) advise the person of the prohibitions under
1-47 Section [Sections] 604A.002 [~~and 604A.0021~~]; and
1-48 (3) state that the person may be liable for a civil
1-49 penalty for a subsequent violation of Section 604A.002 [~~or~~
1-50 ~~604A.0021~~].
1-51 (b-1) If the person complies with Section [Sections]
1-52 604A.002 [~~and 604A.0021~~] not later than the 30th day after the date
1-53 of the notice under Subsection (b), the violation is cured and the
1-54 person is not liable for the civil penalty. A person who has
1-55 previously received notice of noncompliance under Subsection (b) is
1-56 not entitled to notice of or the opportunity to cure a subsequent
1-57 violation of Section 604A.002 [~~or 604A.0021~~].
1-58 (c) The attorney general or the prosecuting attorney, as
1-59 appropriate, is entitled to recover reasonable expenses incurred in
1-60 obtaining injunctive relief, civil penalties, or both, under this

section, including reasonable attorney's fees, court costs, and investigatory costs.

SECTION 4. Chapter 604A, Business & Commerce Code, is amended by adding Section 604A.004 to read as follows:

Sec. 604A.004. IMPOSITION OF SURCHARGE FOR USE OF CREDIT CARD. (a) A merchant may impose a surcharge on a buyer who uses a credit card for an extension of credit instead of cash, a check, or a similar means of payment to pay for the purchase of goods or services. The buyer is obligated to pay any surcharge imposed on the credit extension transaction under this section.

(b) A surcharge imposed under this section may not exceed the amount necessary to offset the cost to the merchant of accepting credit cards.

(c) Before a merchant may impose a surcharge under this section, the merchant must provide to a buyer who uses a credit card for an extension of credit a disclosure stating: "Customers who pay with a credit card are responsible for the payment of a surcharge that won't exceed what's necessary to cover our costs for accepting credit cards."

(d) A merchant who imposes a surcharge under this section must disclose the surcharge on the receipt or other statement of purchase given to the buyer.

SECTION 5. This Act takes effect September 1, 2023.

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